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Withholding Exemption Certificate for Real Estate Sales (For use by sellers of California real estate)

590-RE

File this form with your withholding agent or buyer.
(Please type or print)

Withholding agent's name

Seller's name

Seller's ☐ Social security number
☐ California corp. no. ☐ FEIN

Note: Failure to furnish your
identification number will
void this certificate.

Seller's address (number and street)

Seller's daytime telephone number

()

City

State

ZIP Code

I certify that, for the reason checked below, the entity or individual named above is exempt from the requirement to withhold California income tax on payments made to the entity or individual. Read the following carefully and check the box that applies to the seller or the sale:

☐ **Total Sales Price:**

The total sales price of the California real property conveyed does not exceed \$100,000.

☐ **Individuals — Certification of Residency:**

I am a resident of California and I reside at the address shown above. See Side 2, General Information E, for the definition of a resident.

☐ **Individuals — Certification of Principal Residence:**

The California real property being sold and located at _____ qualifies as my principal residence within the meaning of the Internal Revenue Code (IRC) Section 121. See Side 2, General Information F, for the definition of a principal residence. (Even though you do not currently live in the property, it may qualify as your principal residence for the purpose of filing this form and excluding gain as described in General Information G.)

☐ **Corporations:**

The above-named corporation has a permanent place of business in California at the address shown above or is qualified to do business in California. See Side 2, General Information H, for the definition of permanent place of business.

☐ **Partnerships:**

The above-named entity is a partnership and the recorded title to the property is in the name of the partnership. The partnership will file a California return to report the sale and will withhold on foreign and domestic nonresident partners as required. Get FTB Publication 1017, Nonresident Withholding — Partnership Guidelines, for more information.

☐ **Limited Liability Companies (LLCs):**

The above-named entity is an LLC and the recorded title to the property is in the name of the LLC. The LLC will file a California return to report the sale and will withhold on foreign and domestic nonresident members as required. Get FTB Publication 1017, Nonresident Withholding — Partnership Guidelines, for more information.

☐ **Tax-Exempt Entities:**

The above-named entity is exempt from tax under California or federal law.

☐ **Insurance Companies or Qualified Pension/Profit Sharing Plans:**

The above-named entity is an insurance company or a federally qualified pension or profit sharing plan.

☐ **Irrevocable Trusts:**

At least one trustee of the above-named irrevocable trust is a California resident. The trust will file a California fiduciary return reporting the sale and will withhold when distributing California source income to nonresident beneficiaries.

☐ **Estates — Certification of Residency of Deceased Person:**

I am the executor of the above-named person's estate. The decedent was a California resident at the time of death. The estate will file a California fiduciary return reporting the sale and will withhold when distributing California source income to nonresident beneficiaries.

☐ **Banks:**

The above-named entity is a bank or a bank acting as a fiduciary for a trust.

CERTIFICATE: Please complete and sign below. I understand that completing this form does **not** exempt me from filing a California income tax return to report this sale.

Under penalties of perjury, I hereby certify that the information provided herein is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent.

Seller's name (or seller's agent if seller
is not an individual) and title (type or print) _____

Seller's signature _____ Date _____

Instructions for Form 590-RE

Withholding Exemption Certificate for Real Estate Sales

Reference in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and to the California Revenue and Taxation Code (R&TC).

General Information

A Purpose

Use Form 590-RE to obtain an exemption from withholding for the sale of California real estate. The completed Form 590-RE should be presented to the buyer or other withholding agent and retained for a period of five years following the close of the transaction. The buyer will be relieved of the withholding requirements if the buyer relies in good faith on a completed and signed Form 590-RE.

B Law

The R&TC Section 18662 requires withholding of income (or franchise) tax when California real estate is sold by a nonresident unless you meet a withholding exception or obtain a waiver of withholding. A waiver or reduced withholding amount may be allowed if you can show that the required withholding will exceed the estimated California tax due or that not all the sellers are nonresidents of California. Get Form 597-A, Nonresident Withholding Waiver Request for Real Estate Sales, for more information.

C When to use This Form

The certifications on Side 1 should be completed when:

- **The seller is a California resident on the date escrow closes.** A resident of California who has an out-of-state address to which funds are disbursed will need to complete Form 590-RE to be exempt from withholding. Form 590-RE remains valid if the seller moves out of California after the close of escrow.
- **The property qualifies as the seller's principal residence under the IRC Section 121.** See General Information F.
- **The seller is a corporation that has a permanent place of business in California immediately after the transfer.** See General Information H, What is a Permanent Place of Business.
- **The seller is a partnership and the recorded title to the property is in the name of the partnership.** A partnership includes a syndicate, group pool, joint venture or other unincorporated organization through which the business operation is carried on and which is not a corporation, trust or estate (R&TC Section 17008). A partnership may be required to withhold on distributions of California source income to nonresident partners. For more information, get FTB Pub. 1017, Nonresident Withholding — Partnership Guidelines.
- **The seller is a Limited Liability Company (LLC) and the recorded title to the property is in the name of the LLC.** An LLC may be required to withhold on distributions of California source income to nonresident members. For more information, get FTB Pub. 1017.
- **The seller is exempt from tax under either California or federal law.**
- **The seller is an insurance company or federally qualified pension or profit sharing plan.**
- **The seller is a California trust.** For withholding purposes, an irrevocable trust is considered a California trust if at least one trustee is a California resident. Irrevocable trusts are required to withhold on distributions of California source income to their nonresident beneficiaries. **Note:** The grantor of a revocable/grantor trust shall be treated as the seller of real estate owned by such a trust for withholding purposes. Therefore, if the seller is a revocable/grantor

trust and one or more of the grantors is a nonresident, withholding is required. If all of the grantors of a revocable/grantor trust are residents of California, no withholding is required. Resident grantors should check the box on Side 1 labeled "Individuals — Certification of Residency."

- **The seller is a California estate.** For withholding purposes, an estate is considered a California estate if the decedent was a California resident at the time of death. Estates are required to withhold on distributions of California source income to their nonresident beneficiaries.
- **The seller is a bank or a bank acting as a fiduciary for a trust.**

D Requirement to File a California Tax Return

A completed Form 590-RE relieves the buyer of the requirement to withhold but does not eliminate the requirement that the seller must file a California tax return and pay the tax due.

E Who is a Resident

A California resident is any individual who is in California for other than a temporary or transitory purpose or any individual domiciled in California who is absent for a temporary or transitory purpose.

An individual domiciled in California who is absent from California for an uninterrupted period of at least 546 consecutive days under an employment-related contract is considered outside California for other than a temporary or transitory purpose. This does not apply if an individual has income from stocks, bonds, notes or other intangible personal property in excess of \$200,000 in any taxable year in which the employment-related contract is in effect.

A spouse who is absent from California for an uninterrupted period of at least 546 days to accompany a spouse who is under an employment-related contract is also considered outside of California for other than a temporary or transitory purpose.

Sellers who are uncertain of their residency status can get assistance in determining their residency status by calling the Franchise Tax Board, Taxpayer Services Center, at the numbers listed in General Information I or by getting FTB Pub. 1031, Guidelines for Determining Resident Status, for more information.

F What is a Principal Residence

The home in which you live is your principal residence. You can only have one principal residence at a time. If you have two homes and live in both of them, the principal residence is the one you lived in most of the time.

Even though you do not currently live in the property, it may still qualify as your principal residence for purpose of filing this form and for exclusion of gain as described in General Information G. However, even if the property qualifies as your principal residence within the meaning of IRC Section 121 and the sale is exempt from withholding, you must file a California income tax return to report the sale.

G Exclusion of Gain

For sales on or after May 7, 1997, California law is generally the same as federal law regarding exclusion of gain from the sale of a principal residence. An individual can elect to exclude up to \$250,000 (\$500,000 for married individuals filing jointly) of the gain on the sale of a principal residence. See General Information F, for the definition of a principal

residence. You must have owned and used the property as your principal residence for at least two years out of the five-year period ending on the date of sale. However, you may be able to take advantage of a partial exclusion if the property was your principal residence for less than two years out of the previous five years. Further restrictions or exceptions may apply. For examples and more details, get federal Publication 523, Selling Your Home, by accessing the Internal Revenue Service's (IRS) website at <http://www.irs.ustreas.gov> or by calling the IRS at (800) 829-3676.

H What is a Permanent Place of Business

A corporation has a permanent place of business in California if it is organized and existing under the laws of California or if it is a foreign corporation qualified to transact intrastate business by the California Secretary of State's Office. A corporation that has not qualified to transact intrastate business, such as a corporation engaged exclusively in interstate commerce, will be considered as having a permanent place of business in California only if it maintains a permanent office in California and the office is permanently staffed by its employees.

I Where to get Publications, Forms and Additional Information

FTB Publication 1016, Nonresident Withholding — Real Estate Guidelines, and nonresident withholding forms are available on the FTB website at <http://www.ftb.ca.gov> on the Internet.

Once you access our website, select Tax Forms from the menu, then select the form number you need. For publications select Miscellaneous California Forms, Instructions and Publications.

Nonresident withholding forms may also be obtained via Forms-by-Fax by calling (800) 998-3676. To order publications or forms or to get additional nonresident withholding information, please contact the Nonresident Withholding Section at the address or automated telephone service number below:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

For more information about tax forms and publications not related to nonresident withholding, access the FTB website at the address above or call:

From within the United States . . . (800) 852-5711
From outside the United States . . . (916) 845-6500
For hearing impaired
with TDD. (800) 822-6268